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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LAMONT ADAMS
aka SANDERS LAMONT ADAMS, 93-A-7902,

Petitioner,

-v-

DECISION and ORDER
04-CV-0844S

CALVIN WEST, Superintendent of
Elmira Correctional Facility,
ELIOT SPITZER, NYS, Attorney General
of the State of New York,

Respondents.

By Decision and Order dated April 5, 2005 (Docket No. 9), incorporated by reference herein, this Court dismissed with prejudice Adams' petition for habeas corpus relief pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. In addition, the Court ordered that Adams show cause, by May 9, 2005, why the Court should not impose, for the reasons set forth in the Court's Decision and Order, the sanctions enumerated therein, specifically a fine in the amount of two hundred fifty dollars (\$250), with petitioner to be barred from filing any pro se habeas corpus or civil rights actions until such time as such fine is paid, subject to certain exceptions noted. The Court's Order advised petitioner that his failure to respond to the Court's order to show cause by May 9, 2005 would result in the imposition of such sanctions.

Petitioner submitted no response to the Court's Order of April 5, 2005. Accordingly, this Court reaffirms the Order dated April 5, 2005, and imposes upon petitioner the sanctions described therein.

CONCLUSION AND ORDER

For the reasons discussed in the Court's Decision and Order of April 5, 2005, the Court finds that the sanctions enumerated therein, which are based upon the Court's inherent authority and Fed. R. Civ. P. 11, are warranted and are hereby imposed upon the petitioner. Accordingly, petitioner is hereby fined two hundred fifty dollars (\$250), and shall pay such amount to the Clerk of the Court.

Further, until petitioner pays this fine in full, petitioner will be barred from filing any papers in connection with any habeas corpus or civil rights actions that he has commenced on a *pro se* basis or that he may wish to commence on a *pro se* basis in the future, and the Clerk of the Court is directed to return unfiled to petitioner any papers that he attempts to file in any such civil action. The Court will except from this Order:

1. any papers that petitioner submits in connection with any habeas corpus petition in which petitioner seeks to attack a state court imposed criminal judgment;
2. any papers that petitioner submits in connection with any new action that he seeks to commence pursuant to 42 U.S.C. § 1983, and in which he alleges, in clear and specific language, that he has been, or is in imminent danger of being, subjected to serious and irreparable physical harm, such allegations

to be supported by an accompanying affidavit which sets forth with specificity the facts giving rise to such claim of physical harm.

In addition, because the issues raised here are not the type of issues that a court could resolve in a different manner, and because these issues are not debatable among jurists of reason, the Court concludes that petitioner has failed to make a substantial showing of the denial of a constitutional right, 28 U.S.C. § 2253(c)(2), and accordingly the Court denies a certificate of appealability.

The Court also hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith and therefore denies leave to appeal as a poor person. *Coppedge v. United States*, 369 U.S. 438, 82 S. Ct. 917, 8 L. Ed.2d 21 (1962).

Petitioner must file any notice of appeal with the Clerk's Office, United States District Court, Western District of New York, within thirty (30) days of the date of judgment in this action. Requests to proceed on appeal as a poor person must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED.

Dated: June 13, 2005
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge